

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION
COMMITTEE CONFERENCE ON THE
PRESIDING MEMBER'S PROPOSED DECISION

IN THE MATTER OF:)
)
APPLICATION FOR)
CERTIFICATION FOR THE) DOCKET NO. 09-AFC-1
WATSON COGENERATION)
STEAM AND ELECTRIC)
RELIABILITY PROJECT)

CEC BUILDING
HEARING ROOM A
1516 9TH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, MARCH 20, 2012

3:09 P.M.

TIFFANY C. KRAFT, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

EHLERT BUSINESS GROUP (916) 851-5976

APPEARANCES

HEARING OFFICER

Raoul Renaud

COMMITTEE MEMBERS

Carla Peterman, Presiding Member
Karen Douglas, Associate Member

ADVISORS

James Bartridge
Galen Lemei

STAFF

Jeff Ogata, Staff Counsel
Felicia Miller, Project Manager
Matthew Layton
Jennifer Jennings, Public Advisor

APPLICANT

Christopher T. Ellison, Esq., Ellison Schneider & Harris
Ross Metersky, BP Products, North America
Cynthia Fischer, URS

GOVERNMENT AGENCIES

Jay Chen, SCAQMD

1 PROCEEDINGS

2 COMMISSIONER PETERMAN: Welcome, everyone. We
3 are going to begin.

4 This is the Committee conference on the Presiding
5 Member's Proposed Decision for the Watson Cogeneration
6 Steam and Electric Reliability Project. I'm now going to
7 turn the hearing over to Hearing Officer Raoul Renaud.

8 HEARING OFFICER RENAUD: Thank you, Commissioner
9 Peterman.

10 I'm Raoul Renaud. I'm the Hearing Officer
11 assigned to oversee the hearing process in this matter.
12 I'll introduce the folks up here and ask for introductions
13 from the parties.

14 To my immediate left, as you know, is Carla
15 Peterman, who's the Presiding Member of the Committee.
16 And to her left is Jim Bartridge, her advisor. To my
17 right is Carla Douglas, the Associate Member of the
18 Committee. And to her right is Galen Lemei, her advisor.

19 Let me ask for introductions from the applicant,
20 please.

21 MR. ELLISON: Chris Ellison, Ellison Schneider
22 and Harris representing the applicant, Watson.

23 MR. METERSKY: Ross Metersky with BP Products,
24 North America, representing Watson Cogeneration.

25 HEARING OFFICER RENAUD: Thank you.

1 And from staff?

2 STAFF COUNSEL OGATA: Good afternoon. I'm Jeff
3 Ogata, Staff Counsel for this project. And to my right is
4 Felicia Miller, Project Manager. And we have staff in the
5 audience.

6 HEARING OFFICER RENAUD: Thank you very much. We
7 also had California Union for Reliable Energy as an
8 intervenor in this case. Is anyone representing CURE
9 present? No. Okay.

10 We are also -- we also have this meeting open to
11 the public both in person and on our WebEx telephone and
12 computer system. Let me ask if there is anybody on the
13 phone or on the Web Ex system who would care to introduce
14 themselves at this time.

15 MS. FISCHER: This is Cindy Fischer with URS.
16 I'm the applicant's permitting consultant.

17 HEARING OFFICER RENAUD: Thank you. Anyone else?

18 MR. CHEN: Yes. This is Jay Chen with South
19 Coast Air Quality Management District. I'm along with two
20 of my engineering staff.

21 HEARING OFFICER RENAUD: Thank you very much.
22 And we did receive the comments from the district that
23 were submitted on the PMPD today. Thank you.

24 Anyone else on the phone? Okay. Thank you.

25 Well, I'll explain briefly what this proceeding is.

1 The Presiding Member's Proposed Decision was
2 issued on February 15th, 2012, for the Watson project and
3 that began the running of a 30-day public comment period.
4 The public comment period ended on Friday, March 16th. We
5 like to hold these Committee conferences to discuss the
6 comments that are submitted on the PMPD here from the
7 parties and members of public about the Presiding Member's
8 Proposed Decision as a step in the process leading to the
9 final decision, which is scheduled to be voted on by the
10 full Commission at the April 11 business meeting. So we
11 scheduled this Committee conference.

12 The parties -- well, I should say, the staff and
13 the applicant both submitted comments. Staff's comments
14 were received on Friday, March 16th. And we thank you for
15 those timely comments. We received applicant's comments,
16 and they are dated yesterday, and which is past the
17 deadline that was set for submission of comments. I'd
18 like to find out if any of the parties, staff, or CURE
19 have any objection to their being received, although late.

20 STAFF COUNSEL OGATA: Staff has no objection.

21 HEARING OFFICER RENAUD: No objection. All
22 right. Thank you.

23 We really do ask that parties submit at the same
24 time. It's only fair to the other parties and the members
25 of the public to allow sufficient review period for the

1 parties, as well as for the members of the Committee in
2 order to prepare for meetings such as this.

3 Fortunately, the applicant's comments were very
4 brief and we didn't need too much time to review them. So
5 thank you.

6 I thought what we would do is go through the
7 comments that were the written comments that were
8 submitted and discuss them briefly. See if any of the
9 parties wishes to comment on the comments. And then we'll
10 see what other matters anyone might wish to bring up and
11 then we'll proceed to public comment.

12 Let's begin then with the staff's comments.
13 Staff's comment document I'd say focuses centrally on the
14 GHG section. And if I were to summarize that for my
15 reading of it, the GHG section as written lists among the
16 attributes of the project that it would support the
17 integration of renewable energy projects. Staff takes
18 issue with that pointing out that it is, in fact, a part
19 of the BP Refinery. Its primary role in life will be to
20 serve the refinery's needs for steam and electricity and
21 that it will not be available for dispatch ramping and
22 that sort of thing. And for that reason has requested and
23 suggested edits that would remove from the PMPD reference
24 to it as a supporting renewable energy.

25 And maybe I'll ask -- just see in the staff or

1 staff counsel wishes to add anything to that summary
2 before I open it up for discussion here.

3 STAFF COUNSEL OGATA: We have nothing to add. We
4 have staff available to respond to questions if you have
5 any questions. But we have nothing more to add on that
6 issue.

7 HEARING OFFICER RENAUD: All right. Thank you.

8 Applicant, did you wish to respond to staff's
9 comment as I just summarized concerning GHG?

10 MR. METERSKY: Just one comment. The new
11 facility is expected to run base load around the clock as
12 the staff has suggested. Okay.

13 HEARING OFFICER RENAUD: Yes. And I believe that
14 is reflected in the PMPD that it's basically going to run
15 full time and would not be available then for dispatch in
16 support of renewables.

17 MR. METERSKY: Right. That's our expectation.

18 HEARING OFFICER RENAUD: Good. Did you have
19 anything specific with respect to staff's comments in this
20 area? Did you get a chance to look at staff's comments?
21 Okay. Good. All right. And either Commissioner wish to
22 address that issue?

23 COMMISSIONER DOUGLAS: I think that I appreciate
24 staff pointing that out. I agree with that.

25 COMMISSIONER PETERMAN: Yeah, I also agree with

1 staff's comments on this area. I think they've explained
2 well that there are additional benefits to the State from
3 cogeneration, but that we do need to be careful about
4 making assumptions about all natural gas based facilities,
5 supporting base renewables integration because, indeed,
6 they don't. And it's important to identify it when
7 certain ones do. So thank you for that clarification.

8 HEARING OFFICER RENAUD: Very good. Thank you.

9 And I'll just explain briefly how this will all
10 work. After we've had this Committee conference and the
11 Committee has had a chance to review all of the comments,
12 a document which we call an errata will be prepared. And
13 this will contain changes to the PMPD which will be put up
14 at the business meeting for consideration by the full
15 Commission. If adopted, the adoption would be of both the
16 PMPD and the errata. Then those two documents would be
17 blended into a final decision. So everything we go over
18 today is potential fodder for the errata. So I think
19 we've covered that topic.

20 The issue of renewables integration -- and as you
21 can hear, the Committee is interested in making
22 appropriate changes to the PMPD to reflect the staff
23 comment. So again, thank you for that.

24 Staff had other comments as well. And I'll just
25 quickly run through those and see if there are anything we

1 wish to clear up.

2 I was curious about one, if I may refer you to
3 page 7 of the staff comments. At the bottom there,
4 there's a second bullet. And as I read it, the way the
5 PMPD reflects the metric tons per megawatt hour is in
6 5.500 and you're requesting that we change that to 0.5.
7 And that's fine. But I'm just sort of curious what's the
8 significance there.

9 MR. LAYTON: This is Matthew Layton.

10 HEARING OFFICER RENAUD: Hi.

11 MR. LAYTON: The reg is actually written in 0.5.

12 HEARING OFFICER RENAUD: All right. So we should
13 just reflect that.

14 MR. LAYTON: And if you actually take 1100 and
15 convert it, it actually comes to 4.9999. So really
16 rounding, it should be .5, rather than .500.

17 HEARING OFFICER RENAUD: Okay.

18 MR. LAYTON: I'm the one who made that math
19 error. So .5 is actually a much better number, even
20 though we compare it to other things by taking off three
21 of the digits. But perhaps for purposes of this, it's
22 easier.

23 COMMISSIONER PETERMAN: Yeah, as a researcher, I
24 appreciate attention to digits. So thank you for that
25 clarification.

1 HEARING OFFICER RENAUD: Thank you.

2 The issue in the case that probably generated the
3 most discussion amongst the parties was the water supply.
4 And I looked at staff's comments on the water section. I
5 don't really have any concerns or questions about them.
6 But there are a number of changes to conditions of
7 certification requested. And as far as I can tell, the
8 only one in the staff's comments that -- or the only two
9 in the staff's comments that are substantive as opposed to
10 corrections are -- I guess this is one really on page 10,
11 Soil and Water 10 verification, first sentence. And
12 you've asked that we delete the word "rolling." So it
13 would not be a rolling twelve-month average, but -- oh, I
14 see. You're just moving the word "rolling." We had it in
15 twice. So it's actually a typo. Okay. Nevermind. So
16 rolling was always there. I didn't see that until just
17 now.

18 All right. And then turning on through staff's
19 comments to the land use section, it says here staff has a
20 question about the following paragraph or referred to five
21 projects and staff states only two projects were
22 identified. And that's correct, there were only two
23 identified in the cumulative impacts discussion, but five
24 projects were referenced in the noise section. And there
25 is a citation given that's incorrect. It's actually

1 Exhibit 200, page 4.6-14. So that's the source of the
2 listing of five projects. So I'm thinking we won't change
3 that, unless you have an objection to that. But I assume
4 that since five projects were listed in the noise section
5 they are -- that would equally apply to the land use
6 section; correct?

7 STAFF COUNSEL OGATA: Thank you. I appreciate
8 that clarification.

9 HEARING OFFICER RENAUD: Sorry about the wrong
10 site, but we will make sure that gets straightened out.

11 All right. Let me ask then if applicant has any
12 questions, comments, or concerns about the staff's
13 comments? I think that's all we have from our point of
14 view here.

15 MR. ELLISON: No.

16 HEARING OFFICER RENAUD: No. All right.

17 Now we'll turn to the applicant's comments.
18 Mercifully short, thank you.

19 MR. ELLISON: No, thank you.

20 HEARING OFFICER RENAUD: Just a couple of
21 questions of changes to air quality conditions, SC 9 and
22 SC 10. And I think I'll just check with staff and see if
23 you have any concerns about making those changes.

24 STAFF COUNSEL OGATA: We have no concerns about
25 the changes. We accept the changes.

1 HEARING OFFICER RENAUD: All right. Very good.

2 COMMISSIONER PETERMAN: Hello. As the Presiding
3 Member of the Committee as well as the public member of
4 the Commission, I did want to make a comment about air
5 quality.

6 I just wanted to take the time to acknowledge
7 again the number of sensitive receptors in the area around
8 the Watson facility and my expectation that the applicant
9 fully comply with and even go perhaps beyond as necessary
10 the air quality conditions certification in order to
11 minimize any potential impacts.

12 Specific concern is the dust plumes during
13 construction. And just to remind everyone, within a mile
14 of this project you have ten schools, three parks, four
15 day care centers, twelve churches, and a nursing home.
16 These are society's most sensitive receptors, and they
17 should be afforded the most appropriate attention and
18 protections.

19 So again, you've heard me mention this a couple
20 of times in the proceedings, and it is an important area
21 to me. And move forward accordingly. Thank you.

22 HEARING OFFICER RENAUD: Thank you, Commissioner
23 Peterman.

24 Okay. And then today we received South Coast Air
25 Quality Management District's comments on the PMPD. It

1 appears that they were probably submitted timely. They're
2 dated March 16th, but that there was a routing issue with
3 respect to the fact that the project manager had changed.
4 So at any rate, we received them. They all relate to
5 technical changes to various Conditions of Certification.

6 And just before we began today, staff handed me a
7 document containing the Conditions of Certification
8 incorporating the changes requested by the District. Does
9 anybody wish to comment on the District's comments or on
10 the changes to the conditions?

11 MR. ELLISON: Thank you. Chris Ellison for the
12 applicant. We've just received them. We've taken a quick
13 look at them. We've had a conversation with staff about
14 them.

15 Based on that, we believe that they are fine. If
16 we on further review -- and we have to show our air
17 quality expert these changes. If we have any problem,
18 we'll certainly let you know immediately within the next
19 day or two. But we don't expect that to happen based on
20 the conversations that we've had. And provided that the
21 comments from the South Coast are consistent with the
22 final determination of compliance, which we fully expect
23 they would be, we would be fine with them.

24 HEARING OFFICER RENAUD: All right. Very good.
25 Anything from staff on this?

1 STAFF COUNSEL OGATA: Thank you. So we do
2 apologize for the delay in this. As you said, the
3 comments were routed to Mr. Solomon who is no longer the
4 project manager. He got a promotion, so he's working the
5 PEIR. Ms. Miller received them recently and docketed just
6 recently as well. So we're going to docket the document
7 that we gave you as supplemental staff comments dated
8 today. So it will have a cover.

9 This document consists of the PMPD air quality
10 section with staff's attempt to incorporate South Coast's
11 comments into the PMPD.

12 So just note that basically we've added a
13 paragraph on page 6.2-3. Made a couple of deletions on
14 2-4 and 2-5. We made a deletion on 6.2-18.

15 And then there is some additions to the air
16 quality conditions SC 9 and SC 10 and air quality
17 conditions 1, 2, 5, 6, 7, 8, 9, 11, and 13 which again we
18 believe are all changes that reflect the comments of the
19 South Coast Air District.

20 HEARING OFFICER RENAUD: Okay. Thank you.

21 Would it be appropriate to share this document
22 with the district and have them check it to make sure it
23 would address their comments? Good. So someone will take
24 care of that.

25 STAFF COUNSEL OGATA: My understanding is that we

1 have shared it with them. But again, we will docket this
2 document and make it official.

3 HEARING OFFICER RENAUD: Good. And maybe this
4 would be an appropriate time to ask if representatives of
5 the district who are on the phone would care to speak at
6 this point.

7 MR. CHEN: Yes. This is Jay Chen.

8 We did have a chance to discuss with your staff
9 this morning about the intended changes. And that was we
10 didn't see a draft version of that. And after discussion,
11 however, we have not seen the revised, revised document.
12 So assuming that that reflected our discussion in the
13 morning, we would have no problem with that.

14 And I do want to take this opportunity to thank
15 your indulgence of considering these comments. We did
16 submit these comments on Friday, but we sent it to Mr.
17 Solomon. And also our schedule -- our district has a
18 regular day off on Monday. That's yesterday. So we did
19 not have a chance to discuss with your staff yesterday
20 until this morning basically so that turn out to have this
21 revised document submitted to Hearing Officer late.

22 So hopefully everything -- the intent of our
23 comment is to make sure that your certification conditions
24 are consistent with our proposed conditions. And that's
25 the main purpose.

1 HEARING OFFICER RENAUD: Thank you. And we do
2 appreciate your submitting the comments. And we'll work
3 to incorporate those into the final decision or
4 incorporate revised conditions that will reflect your
5 comments into the final decision. So thank you again.

6 Okay. I think that's all that we have to do here
7 with respect to the written comments that have been
8 submitted.

9 Is there anything any of the parties would like
10 to add with respect to the written comments before we move
11 to public comment?

12 Mr. Ellison, please.

13 MR. ELLISON: Thank you.

14 With respect to our comments being filed
15 yesterday morning rather than Friday, I want to first of
16 all apologize; and secondly, be clear it was the result of
17 a server problem in our office and not the result of our
18 client not taking the Energy Commission's deadline
19 seriously. The client and our consultants had everything
20 to us in plenty of time to get it filed. And it was
21 written and ready to go and we just had a technical
22 problem and couldn't get it here. And we got it here
23 yesterday morning. And for that, we apologize.

24 The second thing I wanted to say is just to
25 compliment the Committee and the staff and express our

1 appreciation for all the hard work that's gone into this
2 and to say I've been doing this for a long time both on
3 that side of the dais and this side of the dais. And we
4 actually had to work really hard to come up with really
5 brief comments. And we thought the PMPD was one of the
6 cleanest ones we've ever seen. And we really appreciate
7 it.

8 HEARING OFFICER RENAUD: Thank you. We
9 appreciate that.

10 For the future -- I probably don't need to say
11 this, but I will anyway. If you have a problem getting us
12 a document in time, just let us know. I mean, we're easy.
13 We just want to know. Call us up, send me an e-mail or
14 something and say, "We had a problem. It's coming."
15 That's all we need. We appreciate that.

16 Okay. Good. Anything further from the parties?

17 Staff.

18 STAFF COUNSEL OGATA: Yeah, I'd just like to make
19 a comment.

20 Typical protocol is we all thank each other for
21 doing such a wonderful job. But I actually do want to
22 thank the applicant. We kind of pushed them hard on the
23 water issue and they responded. And staff really
24 appreciates that. It took a little working to get there,
25 but they did work with us. So I just wanted to note that

1 we appreciate that very much.

2 HEARING OFFICER RENAUD: Thanks again.

3 COMMISSIONER PETERMAN: I will also just note
4 that this is the first case I have been on as lead
5 Commissioner that has reached the PMPD stage. Thank you
6 for making it quite a relatively easy process and for
7 working, playing well together. And appreciate that.

8 HEARING OFFICER RENAUD: Very good. Okay.

9 Well, let's turn to public comment then. I
10 should point out we actually have an agenda here. Public
11 comment is next. Okay. So we're doing just right. Are
12 there any members of the public in the room, in person,
13 who would like to comment?

14 All right. Seeing none, on the phone, do we have
15 anyone who wished to make a comment at this time? I see
16 we have a number of people on line on the phone. No. I'm
17 not hearing from anyone. If you do want to speak, just go
18 ahead, start.

19 And the next item on the agenda is closed
20 session, if we need a closed session. Does anybody,
21 either Commissioner, need a closed session for
22 deliberation?

23 COMMISSIONER DOUGLAS: No.

24 COMMISSIONER PETERMAN: No thank you.

25 HEARING OFFICER RENAUD: All right. Before we

1 adjourn, I'm going to ask one more time if anybody wants
2 to say anything. Okay.

3 What we'll do now is go back to work and prepare
4 the errata. Hope to get this out sometime in the next
5 several days so you'll have time to review it in advance
6 of the business meeting. This matter is scheduled for
7 vote by the full Commission at the business meeting on
8 April 11th. That meeting begins at 10:00 a.m.

9 And if there is nothing further, we'll be
10 adjourned.

11 (Whereupon the California Energy Commission
12 PMPD meeting adjourned at 3:33 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 26th day of March, 2012.

15

16

17

18

19

20

21

22 TIFFANY C. KRAFT, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 12277

25